In the High Court of Uttaranchal, at Nainital.

Writ Petition No. 2663 (M/S)/2001
(Old No. 15406 / 98)

State of U.P. through Executive
Engineer, Anushandhan Evam Niyojan, Khand-2
(Barkot) Yamuna Colony
Dehradun …… Petitioner.

Versus

Presiding Officer, Labour Court
Dehradun and another ….. Respondents.

Sri Nand Prasad, learned Standing Counsel
For the petitioner.
None appeared for the respondents.

Hon'ble B.C. Kandpal, J.

Dated: 04-03-2006

By way of this writ petition, a direction has been sought in the nature of writ of certiorari, quashing the impugned award dated 21-11-1997 passed by the respondent No. 1, Presiding Officer, Labour Court Dehradun, Annexure No. 10 to this writ petition.

2- Brief facts giving rise to this petition are that an industrial dispute was referred to the Presiding Officer, Labour Court, Dehradun and the respondent No. 1 accordingly vide impugned order and award dated 21-11-1997 directed the petitioner to pay the wages to the workman for the period 9-2-1994 to 4-4-1995.

3- Feeling aggrieved by the aforesaid order, this writ petition has been preferred.

4- I have heard the learned Standing Counsel on behalf of the petitioner and perused the record.

5- Perusal of the impugned award shows that the payment to the workman was not made on account of his absence which was found to be against the provision of law by the Presiding Officer, Labour Court.

6- Considering the argument advanced by the learned Standing Counsel for the petitioner as well as after perusal of the record, I am of the view that the salary is monetary benefit, which cannot be taken away from the workman without giving him an opportunity whatsoever the reasons may be. The Hon'ble Supreme Court in a catena of decisions have also propounded the law that no such order, which has the effect of an employee suffering civil consequences, should be passed, without putting the concerned facts and giving him opportunity of hearing in the matter.

7- In the instant case it appears that the salary was not being paid to the workman by the employer, but no enquiry has been conducted by the employer in order to ascertain the reason for the absence of the workman. The petitioner should have been given an opportunity of being heard before withholding the wages of the workman.

8- I do not find any infirmity or any illegality in the impugned judgment and award passed by the Presiding Officer, Labour Court.

9- The writ petition lacks merit, and is liable to be dismissed.

10- Accordingly the writ petition is dismissed. The interim stay order dated 13-5-1998, stands vacated.

(B.C. Kandpal, J.)

ISB